

## Environmental Protection Agency

## § 144.52

has demonstrated mechanical integrity pursuant to §146.8 of this chapter.

(3) The Director may allow the owner or operator of a well which lacks mechanical integrity pursuant to §146.8(a)(1) of this chapter to continue or resume injection, if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

[48 FR 14189, Apr. 1, 1983, as amended at 49 FR 20185, May 11, 1984; 53 FR 28147, July 26, 1988; 58 FR 63898, Dec. 3, 1993; 75 FR 77289, Dec. 10, 2010]

### § 144.52 Establishing permit conditions.

(a) In addition to conditions required in §144.51, the Director shall establish conditions, as required on a case-by-case basis under §144.36 (duration of permits), §144.53(a) (schedules of compliance), §144.54 (monitoring), and for EPA permits only §144.53(b) (alternate schedules of compliance), and §144.4 (considerations under Federal law). Permits for owners or operators of hazardous waste injection wells shall include conditions meeting the requirements of §144.14 (requirements for wells injecting hazardous waste), paragraphs (a)(7) and (a)(9) of this section, and subpart G of part 146. Permits for owners or operators of Class VI injection wells shall include conditions meeting the requirements of subpart H of part 146. Permits for other wells shall contain the following requirements, when applicable.

(1) *Construction requirements* as set forth in part 146. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see §144.11). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Administrator as minor modifications (§144.41). No such changes may be phys-

ically incorporated into construction of the well prior to approval of the modification by the Director.

(2) Corrective action as set forth in §§144.55, 146.7, and 146.84 of this chapter.

(3) *Operation requirements* as set forth in 40 CFR part 146; the permit shall establish any maximum injection volumes and/or pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to assure compliance with the part 146 operating requirements.

(4) *Requirements for wells managing hazardous waste*, as set forth in §144.14.

(5) Monitoring and reporting requirements as set forth in 40 CFR part 146. The permittee shall be required to identify types of tests and methods used to generate the monitoring data. For EPA administered programs, monitoring of the nature of injected fluids shall comply with applicable analytical methods cited and described in table I of 40 CFR 136.3 or in appendix III of 40 CFR part 261 or in certain circumstances by other methods that have been approved by the Regional Administrator.

(6) After a cessation of operations of two years the owner or operator shall plug and abandon the well in accordance with the plan unless he:

(i) Provides notice to the Regional Administrator;

(ii) Describes actions or procedures, satisfactory to the Regional Administrator, that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the Regional Administrator.

(7) *Financial responsibility.* (i) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Director until:

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(A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to §§144.51(o), 146.10, and 146.92 of this chapter, and submitted a plugging and abandonment report pursuant to §144.51(p); or

(B) The well has been converted in compliance with the requirements of §144.51(n); or

(C) The transferor of a permit has received notice from the Director that the owner or operator receiving transfer of the permit, the new permittee, has demonstrated financial responsibility for the well.

(ii) The permittee shall show evidence of such financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as a financial statement or other materials acceptable to the Director. For EPA administered programs, the Regional Administrator may on a periodic basis require the holder of a lifetime permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility, if necessary. The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of subpart F of this part. For Class VI wells, the permittee shall show evidence of such financial responsibility to the Director by the submission of a qualifying instrument (see §146.85(a) of this chapter), such as a financial statement or other materials acceptable to the Director. The owner or operator of a Class VI well must comply with the financial responsibility requirements set forth in §146.85 of this chapter.

(8) *Mechanical integrity.* A permit for any Class I, II, III or VI well or injection project which lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under §146.8, or §146.89 of this chapter for Class VI, that the well has mechanical integrity.

(9) *Additional conditions.* The Director shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of

fluids into underground sources of drinking water.

(b)(1) In addition to conditions required in all permits the Director shall establish conditions in permits as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the SDWA and parts 144, 145, 146 and 124.

(2) For a State issued permit, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of the permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) which takes effect prior to the issuance of the permit. Section 124.14 (reopening of comment period) provides a means for reopening EPA permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For State and EPA administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in §144.39.

(3) New or reissued permits, and to the extent allowed under §144.39 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in §144.52.

(c) *Incorporation.* All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

[48 FR 14189, Apr. 1, 1983, as amended at 49 FR 20185, May 11, 1984; 53 FR 28147, July 26, 1988; 58 FR 63898; Dec. 3, 1993; 65 FR 30913, May 15, 2000; 75 FR 77289, Dec. 10, 2010]

### § 144.53 Schedule of compliance.

(a) *General.* The permit may, when appropriate, specify a schedule of compliance leading to compliance with the SDWA and parts 144, 145, 146, and 124.

(1) *Time for compliance.* Any schedules of compliance shall require compliance as soon as possible, and in no case later than 3 years after the effective date of the permit.